

# **Government Response to the Office of Fair Trading Market Study into Dentistry**



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| <b>Description</b>         | <p>The Office of Fair Trading (OFT) published a market study of the private and NHS dental markets in May 2012. This document sets out the Government's response.</p> <p>The Government welcomes the OFT's report. We are pleased to note that evidence gathered during the market study shows that dental patients have a high level of satisfaction with the services provided by their dentist.</p> |
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# Introduction

The Government welcomes the Office of Fair Trading's (OFT) report on NHS and private dentistry, which was published on 29 May 2012. This market study was prompted by a significant level of complaints reported to Consumer Direct, and by the OFT's concerns regarding potentially high barriers to entry and expansion into the dentistry market and regarding the continuing restrictions on patients' ability to directly access dental care professionals.

The OFT report found that:

- Dental patients commonly have insufficient information with which to make informed decisions about their choice of dentist and the treatments they receive. It also found that that each year around 500,000 patients may be provided with inaccurate information by their dentist regarding their entitlement to receive particular dental treatments on the NHS and, as a result, may pay more to receive private dental treatment.
- Restrictions which prevent patients from directly accessing Dental Care Professionals (DCPs), such as dental hygienists, without a referral from a dentist are unjustified. The OFT considers these restrictions should be removed as they are likely to reduce patient choice and dampen competition.
- The current NHS dental contract in England creates barriers to entry and expansion in the dentistry market. As a result, it is extremely difficult for new dental practices to be established, and successful dental practices which offer a higher quality of services to NHS dental patients are prevented from expanding. The study highlights that the majority of NHS dental contracts in England are not time-limited and were awarded to incumbent dental practices in 2006 and that only a small volume of new contracts are put out to tender each year.
- Other issues of concern in the dentistry market include the complexity of the complaints process for dental patients and potential pressure selling by dentists of private dental payment plans.

The OFT made five recommendations to address these concerns:

- Provision of clear, accurate and timely information for patients
- Direct patient access to dental care professionals
- Reform of the NHS dental contract in England
- Simplification of the complaints process
- Development of a code of practice covering sale of private dental plans

# Government Response

The Government welcomes this report. We are pleased to note that evidence gathered during this market study shows that dental patients have a high level of satisfaction with the services provided by their dentist.

The remainder of this paper looks in more depth at the recommendations aimed at Government and sets out the Government's response. Although the OFT's market study covers the whole of the UK, this paper responds to recommendations only as they apply to England. Those that apply to Scotland, Wales or Northern Ireland are a matter for the devolved administrations.

## **Recommendation: Provision of clear, accurate and timely information for patients**

1. The OFT called on NHS commissioning bodies, the General Dental Council (GDC) and the Care Quality Commission to be proactive in enforcing existing rules which require dentists and dental practices to provide timely, clear and accurate information to patients about prices and available dental treatments.
2. The Government shares the concerns of OFT that a minority of dentists deny patients all or part of the NHS care available on the basis of misinformation. This is a very serious matter and any dentist doing so deliberately is in breach of their NHS contract. In such cases, the PCT with whom they have the contract can take action to terminate it.
3. All practices holding an NHS contract are required to display a poster showing the NHS charges and hold the NHS patient leaflet which explains patient entitlements. Not to display the poster or make the leaflet available is a breach of their NHS contract.
4. We have already taken steps to improve transparency and communication for patients further. NHS Choices is the Department of Health's public facing website and it contains the most up to date information on dental treatment costs and entitlements. The dental section of NHS Choices was updated in February 2012 following suggestions and comments submitted by the public through the site. These changes include new pages which clearly explain NHS dental charges and exemptions, and inform patients how to get help with NHS dental costs.

## **Recommendation: Direct patient access to dental care professionals**

1. The OFT called on the GDC to remove rules which prevent patients from making direct appointments to see dental hygienists, dental therapists and clinical dental technicians without having been examined by a dentist first.

2. The Government welcomes the OFT's proposals for direct access to DCPs. We want people to be able to see the right dental professional when they need to. Clearly, this needs to be in a managed and clinically appropriate environment and we welcome the GDC's intent to resolve this issue in the best interest of patients.
3. We are currently piloting elements needed to design a new dental contract. These pilots will help establish a better basis for a system where patients can see the right dental professional when they need to, and in an appropriate environment.

### **Recommendation: Reform of the NHS dental contract in England**

1. The OFT suggested the Department of Health redesign the NHS dental contract to facilitate easier entry into the market by new dental practices and allow successful practices to expand. To facilitate this, The OFT urged the department to consider introducing a system in which 'any qualified provider' may deliver NHS services to dental patients. The OFT also asked the department to consider ending the existing arrangement where most contracts are non time limited and replacing these with fixed term contracts.
2. The Government intends NHS primary care dentistry to remain, as with other primary care services a commissioned service.
3. Commissioners are already free to let new contracts on a time limited basis, and many do choose to do so. Primary care trusts report strong competition when new contracts go out to tender from existing and would be new providers of services.
4. We intend to make the process of bidding for new services easier. Under the new commissioning arrangements commencing April 2013, the NHS Commissioning Board will directly commission dentistry. This will enable a more consistent approach to the procurement of services and should make it easier for practices to identify opportunities to compete for contracts.
5. We are committed to introducing a new dental contract based on capitation, registration and quality, and are currently piloting elements needed to design this new contract in 70 practices across England, in order to gather learning ahead of implementation. We will investigate a range of new options in designing this new contract, including whether and how we could introduce the concept of 'any qualified provider' into NHS dentistry.
6. Dental contracts need to be attractive enough to ensure potential providers can make the investment needed and for financial institutions to support them.
7. It is important to note that, in dentistry, as in any other health care service, quality of service is primarily controlled through regulation and providers who

do not meet quality standards risk breaching their contract, whether time limited or not.

### **Recommendation: Simplification of the complaints process**

1. The OFT considers that the current dental complaints system should be reformed to make it simpler, easier and less time consuming for patients and dentists to resolve complaints.
2. The Government shares the OFT's view that patients' ability to make a complaint about dental treatment should be made as simple as possible. We are updating the patient leaflet to highlight the availability of information on the complaints procedure and the opportunity to give feedback on practices on NHS Choices. However, more work is being done in this area to improve information on patients' views of different dental practices.
3. The Government will consider in discussion with the GDC, (the body responsible for the private complaints system), whether any synergies can be achieved between the existing private and NHS complaint systems particularly where the care complained about was a mixture of private and NHS, having regard to the fact that the statutory NHS complaints arrangements cover all providers of NHS-funded care; this includes the four primary care contracting groups.

### **Recommendation: Develop a code of practice covering sale of private dental plans**

1. Following discussion with the OFT, the British Dental Association (BDA) has agreed to develop a robust and effective code of practice covering the sale of non-NHS dental payment plans.
2. The Government shares the OFT's concerns that a minority of dentists are behaving inappropriately in this manner, and we welcome the agreement reached between the BDA and OFT to introduce a code of practice to avoid mis-selling or pressuring patients to take up sale of private dental plans.
3. There should be clear penalties for the minority of dentists who mislead patients. In particular, accepting children under NHS arrangements on condition of parents signing up to private payment plans is a breach of contract.

# Conclusion

1. In its report, the OFT acknowledges that the vast majority of patients are happy with their dental treatment and that the majority of dentists behave ethically.
2. The Government welcomes the OFT's recommendations to discourage and penalise the minority of dentists who mislead patients, and its proposals to improve access to DCPs.
3. We have already acted upon many of the report's findings, particularly around increasing transparency of information for patients.
4. Direct access is essentially an issue for the GDC but it is important that education provision be in place to support any change to the current situation.
5. We will investigate a range of new options in designing a new dental contract, including whether and how we could introduce the concept of AQP into NHS dentistry.

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